UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

PRIME HEALTH SERVICES, INC.,)
Plaintiff,))
v.) NO. 3:16-cv-00034
CAPITAL BANK, N.A., and CAPITAL) JUDGE CRENSHAW
· · ·)
BANK FINANCIAL CORP.,)
)
Defendants.)

ORDER

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Capital Bank, N.A. and Capital Bank Financial Corporation filed a Motion to Dismiss ("Motion") (Doc. No. 36) the Complaint for failure to state a claim upon which relief can be granted. For the reasons set forth in the accompanying memorandum, the Motion will be is **DENIED** as to Prime Health Service, Inc.'s first and second causes of action, but is **GRANTED** as to Prime's third cause of action.

IT IS SO ORDERED.

WAVERILY D. CRENSHAW, K. UNITED STATES DISTRICT COURT